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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,020	02/09/2004	Thaddeus E. Nordquist	EMI-003	9793

7590 08/25/2004

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EXAMINER

NICHOLSON, ERIC K

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,020

Applicant(s)

NORDQUIST ET AL.

Examiner

Eric K Nicholson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 2,3 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-9-04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

Claim 4 is objected to because of the following informalities: In claim 4, line 2, it is unclear what is meant by a “minor part” of the “body portion”.

Appropriate correction is required.

Claim Rejections –35 USC § 101

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed **terminal disclaimer** in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 5 and 6 are provisionally rejected under the judicially created doctrine of double patenting over claims 1 and 8 of copending parent Application No. 10.393162. This is a provisional double patenting rejection since the conflicting claims have not yet been patented. Although the conflicting claims are not identical, the subject matter claimed in the instant application is fully disclosed in the copending application and is covered thereby. The claims are not patentably distinct from each other because the copending application and the present application are claiming common subject matter, as follows: A feed through device in that forms and interference fit with a bulkhead when axially inserted into an opening in the bulkhead and a first set of laterally aligned teeth protruding laterally from a periphery of said body portion and shaped to cut into the bulkhead as the body portion is inserted into the opening a first set of teeth being symmetrically distributed about a lateral perimeter of the body portion and groove in the periphery of the body portion immediately inward of the first set of teeth. The

interference fit of the present application can be viewed as performed via the teeth cutting into the bulkhead.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4 and 8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 5,380,048 to Vogel. The Vogel device illustrates the present invention with a feed through device that fits within a bulkhead 34 when axially inserted into an opening in the bulkhead and the body portion is soldered in the opening of the bulkhead (column 7, lines 50-55). Further a first set of laterally aligned teeth 46 protruding laterally from a periphery of a body portion 38 and shaped to cut (column 3, lines 10-15) via an interference fit into the bulkhead as the body portion 38 is inserted into the opening a first set of teeth being symmetrically distributed (see figs 5 and 6) about a lateral perimeter of the body

portion to insure centering of the body portion in the opening (column 3, lines 5-15). As to claim 4 the teeth 46 are viewed as only a minor part of the body portion 38 and as to claim 8 see flange 56.

Claims 1 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 4,135,740 to Watson Jr.. The Watson Jr. device the present invention with a feed through device that fits within a bulkhead 22 when axially inserted into an opening in the bulkhead and the body portion 20 is soldered in the opening of the bulkhead (column 3, lines 60-65). Further a first set of laterally aligned teeth 27,28 protruding laterally from a periphery of a body portion 38 and shaped to cut (column 2, lines 40-45) via an interference fit into the bulkhead as the body portion 20 is inserted into the opening a first set of teeth being symmetrically distributed (see fig 1) about a lateral perimeter of the body portion to insure centering of the body portion in the opening.. As to claim 4 the teeth 27,28 are viewed as only a minor part of the body portion 20.

Claims 1,4,5 and 6 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 5,507,528 to Mastrosimone. The Mastrosimone device illustrates the present invention with a feed through device that fits within a

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bulkhead 20 when axially inserted into an opening in the bulkhead and the body portion 12 is soldered in the opening of the bulkhead (column 1, lines 34-36).

Further a first set of laterally aligned teeth 30 protruding laterally from a periphery of a body portion 12 and shaped to cut (column 4, lines 50-55) via an interference fit into the bulkhead as the body portion 12 is inserted into the opening a first set of teeth being symmetrically distributed (see the figure) about a lateral perimeter of the body portion to insure centering of the body portion in the opening (column 3, lines 34-36). As to claim 4 the teeth 30 are viewed as only a minor part of the body portion 12. As to claims 5 and 6 see groove 24 (column 3, lines 45-50).

Allowable Subject Matter

Claims 2,3 and 7 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Nicholson whose telephone number is (703) 308-0829. The examiner can normally be reached on Tuesdays thru Fridays from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for Technology Center 3600 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

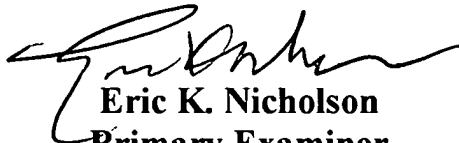
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direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

ekn

W@H

4/20/04



Eric K. Nicholson
Primary Examiner
Technology Center 3600